

COLORADO STATE BOARD OF MEDICAL EXAMINERS

FULL BOARD OPEN MINUTES

August 20, 2009

9:05 a.m.

A full board meeting of the Colorado State Board of Medical Examiners was held Thursday, August 20, 2009, at 1560 Broadway, Conference Room, Denver, Colorado at 9:05 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis (absent from 11:00 a.m. to 12:50 p.m.), Dr. Calonge (absent from 9:35 a.m. to 10:47 a.m., and departed at 1:10 p.m.), Mr. Jennings, Reverend Leivers (departed at 12:40 p.m.), Dr. Matthews, Dr. Melendez, Dr. Phelps, Ms. Radcliff, Mr. Schoenmakers, Dr. Utt and Dr. Watts.

The meeting was conducted by Dr. Allen-Davis and Dr. Calonge.

Also in attendance for all or part of the meeting were Board staff Susan Miller, Healthcare Section Director; Cheryl Hara, Program Director; Monica Brion, Enforcement Case Manager; Maria Soto, Program Assistant; and Sue Kim, Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open minutes of the May 13, 2009 special meeting of the full board sunset committee and the May 21, 2009 full board meeting as drafted.

Introduction of New Board Member

Dr. Allen-Davis introduced the new Board member, Jose A. Melendez, M.D.

REPORTS

President's Report

Dr. Allen-Davis reported on Federation of State Medical Boards updates, Board membership changes, status of sunset review, and BON/BME workgroups.

Section Director's Report

Susan Miller reported on staffing, budget cuts, BON/BME workgroups and sunset review.

Program Director's Report

Cheryl Hara updated the Board regarding Patient Safety Advisory Committee and CPHP participation and regarding upcoming CPHP Task Force meeting.

GENERAL BUSINESS

EMTS-MDC Recommendations for Rule 500 Waivers

Arthur Kanowitz, M.D., Medical Director, Emergency Medical & Trauma Services (EMTS) Section, and Marilyn K. Bourn, R.N., EMTS State Training Coordinator at Colorado Department of Public Health and Environment (CDPHE), were present at the meeting to discuss Medical Direction Committee (MDC) Rule 500 Waiver recommendations.

After discussion, motions were made, seconded and carried to adopt the EMTS-MDC recommendations for Rule 500 waiver requests with amendments. Specifically, separate motions were made, seconded, and carried to: approve waiver 09-19 as submitted by Dr. Christopher Colwell; approve waiver 09-20 to Dr. David Ross with amendments and conditions requiring periodic and specific reporting for the use of Etomidate; and approve waiver 09-21 as submitted by Dr. David Ross. Waiver request 09-18 was withdrawn by the requesting party.

A motion was made, seconded, and carried to direct staff to draft a letter to be used by MDC for notification of approval of waivers by the Board.

The Board reviewed letter from Dr. Christopher B. Colwell, Associate Director, Department of Emergency Medicine, Denver Health Medical Center, regarding the use of King LT-D. No action was taken.

The Board reviewed letter from Michelle Loop from the Medical Center of Aurora regarding C-PAP. No action was taken.

Rulemaking Hearing to Consider Adopting New Rule:

Rule 380 – Colorado State Board Of Medical Examiners Rules And Regulations Regarding Reporting Requirements for Criminal Convictions

PUBLIC RULEMAKING TO ADOPT RULE 380

At 10:00 a.m. an announcement was made that rulemaking would start after conclusion of the General Business appearances.

A motion was made, seconded and carried to convene the public rulemaking hearing, which was convened at 10:04 a.m. and closed at 10:22 a.m. The Hearing was properly noticed under the provisions of the Administrative Procedure Act to consider Rule 380.

Dr. Allen-Davis presented an overview of the proposed rule. A full opportunity was provided for submission of oral and written comments by the public. No written documents were offered or received in advance of or at the hearing.

Open public testimony ensued. Oral comments were made by: Kari Hershey, Esq.

Discussion among the Board members ensued, including discussion of various proposed amendments.

After due consideration, a motion was made, seconded and carried to adopt Rule 380 with amendments, together with statement of basis and purpose, as published with the Notice of Rulemaking Hearing, to become effective September 30, 2009.

Christopher Colwell, M.D.

Presented an updated report to the Board regarding the use of Droperidol by EMTs at Denver Health Medical Center. He will report again at the February, 2010 Full Board meeting.

Medical Marijuana Program

Dr. Calonge recused himself from participation in this matter and departed the meeting room.

The Board reviewed a letter dated August 3, 2009 from Ann Hause, Director, Office of Legal and Regulatory Affairs.

Motion to enter Executive Session

At 10:32 a.m., a motion was made, seconded and carried unanimously to enter into executive session for the purpose of discussing specific claims or grievances or receiving legal advice on specific legal questions, pursuant to Section 24-6-402(3)(a)(II), C.R.S., including discussion with counsel regarding the Medical Marijuana Program and the request from Ann Hause, Director of the Office of Legal and Regulatory Affairs. After discussion, at 10:47 a.m., the Board's discussion in executive session concluded and the Board returned to open session.

Ann Hause appeared and addressed the Board.

After discussion, a motion was made, seconded, and carried, to direct staff to draft a letter stating the Board's position to CDPHE and to respond to the letter dated August 3, 2009 from Ann Hause, Director, Office of Legal and Regulatory Affairs. .

Review Proposed Board Policy 10-18

The Board reviewed proposed revisions to Policy 10-18. After discussion, a motion was made, seconded, and carried to adopt revisions to Rule 10-18 regarding Public Disciplinary and Other Board Action Documents.

Review Proposed Board Policy 10-17

The Board reviewed proposed revisions to Policy 10-17. After discussion, a motion was made, seconded, and carried to adopt revisions to Rule 10-17, Process for Handling Complaints Involving Board Members.

Rule 400 - Request for Waiver of the Board Rule Regarding the Regulation of Physician Assistants

David Harclerode, M.D.

The Board reviewed correspondence from Dr. Harclerode requesting a waiver from Rule 400, Section 2 B 1, Two Physician Assistant Limit.

After careful consideration of the available information, the Board found good cause existed to permit waiver of the rule limitation. A motion was made, seconded and carried to approve Dr. Harclerode's request for a period of two years from the date of this meeting.

CPHP Report, Fourth Quarter, Report ending June 30, 2009

The Board reviewed the June 30, 2009 Fourth Quarter Report.

A motion was made, seconded and carried to accept the report.

CPHP Annual Report for the period of July 1, 2008 through June 30, 2009

The Board reviewed the Annual Report for the period of July 1, 2009 through June 30, 2009.

A motion was made, seconded and carried to accept the report.

International Medical School Graduates

The Board reviewed a memo from Cheryl Hara and information regarding international medical schools.

The Board gave guidance to staff to revise existing licensing policies regarding International Medical Schools..

Requests to be Members of the Committee on Anti-Competitive Conduct (CAC)

The Board reviewed correspondence and information provided by Tarek Arja, D.O., Robert Bennet Gore, M.D. and Celine F. Tolge, M.D.

The Board approved Tarek Arja, D.O., Robert Bennet Gore, M.D. and Celine F. Tolge, M.D., as CAC members for the term beginning 11/1/09 through 10/31/12.

ATTORNEY GENERAL REPORTS

a. Case Status Report dated 5/1/2009

The Board reviewed privileged case status reports dated July 30, 2009. No action was taken.

CONFIDENTIAL OFFICE OF ATTORNEY GENERAL STATUS REPORT

Allison Miller, and Cabana Medical & Day Spa, LLC. (Unlicensed Practice)

The Board reviewed an executed Order for Permanent Injunction. No action was required.

REPORTS OF OFFICE OF INVESTIGATIONS

Tran Dat, Case No. 2009-004099-F

Drs. Allen-Davis and Calonge recused themselves from participation in this matter and departed the meeting room.

The Board reviewed a report from D'Ann Murphy, Investigator, dated July 30, 2009.

After discussion, a motion was made, seconded and carried to dismiss the case.

ALLEGATIONS OF UNLICENSED PRACTICE OF MEDICINE AND/OR RULE 800 VIOLATIONS

Vera Karpova (Unlicensed Practice)

The Board reviewed staff memo, correspondence and memo from Program Director of Physical Therapy Licensing Board.

After discussion, a motion was made, seconded and carried to dismiss the complaint.

The Board instructed staff to issue letter to Vera Karpova regarding prohibited use of protected titles and close the matter.

Med Express (Rule 800 Violation)

Dr. Calonge recused himself from participation in this matter and departed the meeting room.

The Board reviewed a memo from Michelle Reese, Deputy EMTS Section Chief, CDPHE, dated May 7, 2009.

A motion was made, seconded and carried to refer this matter to the Office of Investigations and to refer any licensee involved to an Inquiry Panel.

ITEMS OF INTEREST

Motion to enter Executive Session

At 12:52 p.m., a motion was made, seconded and carried unanimously to enter into executive session for the purpose of discussing disputes that are the subject of pending or imminent court action, discussing specific claims or grievances or receiving legal advice on specific legal questions, pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II), including discussion with counsel regarding the impact of a recent Supreme Court decision in *DeSantis v. Simon*, 08SA321. After discussion, at 1:10 p.m., the Board adjourned executive session and returned to open session.

OTHER ITEMS OF INTEREST

- The Board reviewed a Memo from W.G. Thurman, M.D., Provost, University of Medicine and Health Sciences. No action was taken.
- The Board reviewed a Denver Post Article, written by Jennifer Brown and published on May 27, 2009 regarding Osteopathic Medical School Ousts Dean (and) Half of Its Board. No action was taken.
- The Board was informed that DORA has outsourced wall certificates.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:30 p.m.

These Minutes were approved by the Panel on this 19th day of November, 2009.

FOR THE BOARD OF MEDICAL EXAMINERS

Approved by: Jandel Allen-Davis, M.D.

Date: November 19, 2009